



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/599,285

09/25/2006

Christoph Briehn

WAS0807PUSA

6497

22045

7590

06/15/2009

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

EXAMINER

PAK, HANNAH J

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

06/15/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Art Unit: 1796

Attachment to Box 11:

The applicants' arguments filed 06/04/2009 are fully considered but are not found persuasive. The applicants appear to argue that Olsen does not teach the claimed alkoxysilane (see Pages 2-3 of the Applicants' Remarks). They also point to the examples of Olsen to show that Olsen is only limited to using (see Page 3 of the Applicants' Remarks).

However, Olson teaches hydrolyzing the silyl acrylate having the formula, $(R^1O)_{4-a-b}(R)_aSi(CR^2)[CH(R^2)R^3O(C=O)C(R^2)=C(R^2)_2]_b$, in the presence of aqueous colloidal silica having submicron-sized silica particles (Col. 1, lines 50-54, Col. 3, lines 45-50, and Col. 5, lines 53-61). Moreover, Olson's $(R^1O)_{4-a-b}(R)_aSi$ correspond to the claimed $(R^1O)_{3-n}(R^2)_nSi$. Olson's $(CR^2)[CH(R^2)R^3]$ when R^2 is a hydrogen and R^3 is a C1-C8, is structurally similar to the claimed CR^3_2 , when R^3 is equal to a hydrocarbon radical having 1-12 carbon atoms, see *MPEP* § 2144.09, *Chemical Compounds with Structural Similarity*. Olson's oxygen corresponds to the claimed A group. Olson's C=O (carbonyl group) corresponds to the claimed D group. Olson's $C(R^2)=C(R^2)_2$ corresponds to the claimed C group. Therefore, Olson teaches or at least suggests the claimed composition. Moreover, the examples should not be limited to the prior art.

As to the 37 CFR .1.132 declaration filed 06/04/2009, it is noted that the Declaration is submitted to provide evidence of unexpected or surprising results over Olson (US 4,491,508) utilized in the rejection of record. The cited reference was applied back in the Office Action mailed 8/14/08 and maintained in the final action mailed 2/12/09. It would appear therefore that applicant had ample

Art Unit: 1796

opportunity to present the cited declaration at any time prior to final but did not.

Hence, it is not unreasonable to hold the submission of the declaration after final to be untimely. Moreover, it appears from paragraph 4 of the declaration that applicant's showing is based upon a single species ("claimed methacrylatopropyltrimethopxysilane") of the broadly recited organosilanes of formula (II) in present independent claim 11. Therefore, in addition to being untimely the declaration is not commensurate in scope with the broad scope of at least independent claim 11. In view of the above discussion, the declaration is not persuasive enough to overcome the rejection of record.

/Hannah Pak/

Examiner, Art Unit 1796

/Vasu Jagannathan/
Supervisory Patent Examiner, Art Unit 1796